

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
AT NASHVILLE**

M.B.

Plaintiff,

v.

DR. WENDY LONG, in her official capacity as the Deputy Commissioner of the Tennessee Department of Finance and Administration and Director of the Bureau of TennCare and LARRY B. MARTIN, in his official capacity as Commissioner of the Tennessee Department of Finance and Administration,

Defendants.

Civil Action No. 3:16-cv-02063

Judge Sharp
Magistrate Judge Newbern

JOINT MEDIATION STATEMENT

Pursuant to the Court's October 4, 2016, Initial Case Management Order, Plaintiff M.B. and Defendants (hereinafter, "the State") hereby submit a Joint Mediation Statement, stating as follows:

1. On October 4, 2016, the Court entered an Initial Case Management Order ordering the parties to submit a joint mediation statement on or before February 1, 2017, reflecting "that the parties met and made a good faith effort to resolve the litigation" and indicating "whether referral to formal alternative dispute resolution is appropriate." D.E. 26. The parties have met and made a good faith effort to resolve the litigation, but those efforts were not successful. The parties continue to have differing views on whether referral to formal alternative dispute resolution is appropriate.

2. Plaintiff's position is as follows: Plaintiff believes that this case should be referred to formal alternative dispute resolution as soon as possible after the Court rules on Defendants' Motion to Dismiss (D.E. 21), if the Court does not dismiss the case in its entirety. The parties have completed document discovery, and the Court's ruling on Defendants' Motion to Dismiss will clarify the strengths and weaknesses of the parties' respective positions. Plaintiff believes that this case can be settled and that formal alternative dispute resolution will be a far better use of everyone's resources than preparing for additional dispositive motions (currently due by July 19, 2017) and preparing for a bench trial (currently scheduled for January 9, 2018).

3. The State's position is as follows: Settlement is not a realistic possibility in this case given the great divergence of the parties' positions, and mediation therefore would not be a productive or efficient use of the parties' time, effort, or resources.

DATED this February 1, 2017

/s/Christopher E. Coleman

Christopher E. Coleman

Christopher E. Coleman TN BPR 24950
Gordon Bonnyman, Jr. TN BPR 2419
TENNESSEE JUSTICE CENTER
301 Charlotte Avenue
Nashville, Tennessee 37201
Telephone: (615) 255-0331

Jeff H. Gibson (26321)
BASS, BERRY & SIMS PLC
150 Third Avenue South, Suite 2800
Nashville, TN 37201
(615) 742-6200

Attorneys for Plaintiffs

CERTIFICATE OF SERVICE

I hereby certify that on this day a true and correct copy of the foregoing has been filed with the Court through the CM/ECF filing system, and that by this filing notice will be sent electronically to all counsel of record, including:

Michael W. Kirk
Nicole J. Moss
COOPER & KIRK, PLLC
1523 New Hampshire Avenue, NW
Washington, D.C. 20036

Linda A. Ross
Carolyn E. Reed
OFFICE OF THE ATTORNEY GENERAL
P.O. Box 20207
Nashville, TN 37202

Dated February 1, 2017.

/s/ Christopher E. Coleman

Christopher E. Coleman